

ROBERT MENENDEZ
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COMMITTEES:
BANKING, HOUSING, AND URBAN
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BUDGET
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United States Senate

WASHINGTON, DC 20510-3005

May 17, 2010

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The Honorable Ken Salazar
Secretary
Department of the Interior
1849 C Street NW
Washington, DC 20240

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, DC 20528

The Honorable Lisa P. Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

The Honorable Jane Lubchenco
Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue NW
Room 5128
Washington, DC 20230

The Honorable Robert M. Gates
Secretary
Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

The Honorable Hillary Clinton
Secretary
Department of State
2201 C Street NW
Washington, DC 20520

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Secretary Salazar, Secretary Napolitano, Administrator Jackson, Administrator Lubchenco, Secretary Gates, Secretary Clinton, and Secretary Sebelius:

Under federal law British Petroleum (BP) is responsible for all spill response costs associated with the tragic Deepwater Horizon oil spill in the Gulf of Mexico. That means that after all is said and done, not one dime of federal taxpayer money should be spent on this spill response. For that reason, once the relief well has permanently halted the flow of toxic oil in to the Gulf, I am requesting a full accounting of all federal expenses incurred responding to this tragedy, so the public can be sure that BP reimburses the government for every penny spent cleaning up BP's mess.

Existing federal law makes it clear that BP is responsible for paying for response costs. The Oil Pollution Act of 1990 states that an oil spill's "responsible party" is "liable for the removal costs ... that result from such incident." Such costs include any "actions...to minimize or mitigate damage to the public health or welfare" in response to the spill. As a "responsible party", BP therefore must reimburse the federal government for all of its considerable efforts in the Gulf of Mexico.

As you know, I have also introduced legislation to increase oil spiller's liability cap from \$75 million to \$10 billion, but current law is clear that there is no cap on liability for clean up, mitigation, and other response costs. As Secretaries Salazar and Napolitano noted in their May 14 letter to BP CEO Tony Hayward, BP is responsible for all response costs. These response costs include paying for all activities associated with mobilizing federal employees and resources to clean up after BP. Your agencies have deployed personnel and resources responding to the disaster in the Gulf that would normally have been engaged in other critical activities on behalf of the American people. BP must reimburse the U.S. government for all costs associated with that mobilization, including costs of travel, lodging, meals, and time spent working for all federal officials responding to the spill. Failure to reimburse for these costs would mean that taxpayers would be footing part of the bill to clean up BP's mess. The American people will not stand for that.

Aside from the company's legal liability for these expenses, it is clear that BP can afford to reimburse taxpayers for the federal government's spill response. While the company has already spent \$450 million responding to the spill and compensating coastal states and the federal government for their responses, with high oil prices, that considerable sum amounts to a mere 5 days of profits for BP. Clearly, BP can afford to meet its legal obligation to pay all expenses incurred by the taxpayers cleaning up BP's mess.

I commend you and your agencies for sparing no expense to protect America's beaches, marine life, wetlands, and other precious resources from the oil fouling the Gulf of Mexico. After all is said and done, we must make sure that taxpayers are fully reimbursed for all federal resources mobilized as a result of the disaster in the Gulf. That starts with a full and complete accounting of all the resources your agencies are deploying in this vital effort.

Sincerely,

A handwritten signature in black ink that reads "Robert Menendez". The signature is fluid and cursive, with a large, stylized initial "R".

ROBERT MENENDEZ
United States Senator